



House of Representatives

General Assembly

File No. 397

February Session, 2002

House Bill No. 5518

House of Representatives, April 9, 2002

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING WITNESS FEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (d) of section 52-143 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2002*):

4 (d) Subpoenas for witnesses summoned by the state, including
5 [those] subpoenas issued by any attorney employed by the Office of
6 the Attorney General, [or an assistant attorney general, or by any
7 public defender or assistant public defender acting in his] the Division
8 of Public Defender Services or the Division of Criminal Justice, or by
9 any attorney appointed or designated under subsection (d) of section
10 16-50n, section 51-285 or subsection (a) of section 51-293, acting in the
11 attorney's official capacity, may contain [this] the following statement:
12 "Notice to the person summoned: Your statutory fees as witness will
13 be paid by the clerk of the court where you are summoned to appear, if
14 you give the clerk this subpoena on the day you appear. If you do not

15 appear in court on the day and at the time stated, or on the day and at
16 the time to which your appearance may have been postponed or
17 continued by order of an officer of the court, the court may order that
18 you be arrested."

19 Sec. 2. Section 52-260 of the general statutes, as amended by section
20 1 of public act 01-32, section 4 of public act 01-84 and section 7 of
21 public act 01-186, is repealed and the following is substituted in lieu
22 thereof (*Effective October 1, 2002*):

23 (a) [The] Except as otherwise provided in this section or in sections
24 54-82i, as amended by this act, and 54-152, the fees of a witness [for
25 attendance] summoned to appear before any court [,] in any civil or
26 criminal proceeding, before the General Assembly or any committee
27 thereof [, when summoned by the state,] or before any legal authority
28 [.] shall be [fifty cents] (1) for attendance, five dollars a day, and (2) for
29 travel to the place of trial, [except as provided in section 54-152, shall
30 be] the same amount per mile as provided for state employees
31 pursuant to section 5-141c. Whenever a garnishee is required to appear
32 before any court, such garnishee shall receive the same fees as a
33 witness [in a civil action] and be paid in the same manner. The
34 summoning party shall pay the fee of a witness at the time of service of
35 the summons to appear, except that if the witness is summoned by the
36 state, including by any attorney employed by the Office of the
37 Attorney General, the Division of Public Defender Services or the
38 Division of Criminal Justice, or by any attorney appointed or
39 designated under subsection (d) of section 16-50n, section 51-285 or
40 subsection (a) of section 51-293, acting in the attorney's official
41 capacity, the clerk of the Superior Court, upon request, shall, on the
42 day of attendance, pay the fee of [any witness summoned by the state
43 to appear before the court] such witness, unless the witness has been
44 paid in accordance with section 54-82i, as amended by this act, or 54-
45 152.

46 (b) When any regular or supernumerary [policeman] police officer
47 or any regular, volunteer or substitute [fireman] firefighter of any

48 town, city or borough is summoned to testify in any criminal
49 proceeding pending before the Superior Court or the Department of
50 Consumer Protection and the [policeman or fireman] police officer or
51 firefighter receives no compensation from the town, city or borough by
52 which [he] such police officer or firefighter is employed for the time [so
53 spent by him, the policeman or fireman] spent testifying, the police
54 officer or firefighter shall be allowed and paid by the summoning
55 party forty dollars, together with [the mileage allowed by law to
56 witnesses in criminal cases, for each day he] mileage in the same
57 amount per mile as provided for state employees pursuant to section
58 5-141c, for each day that the police officer or firefighter is required to
59 attend the proceedings.

60 (c) When any regular or supernumerary [policeman] police officer
61 or any regular or substitute [fireman] firefighter is summoned to
62 testify in [his capacity as a policeman or fireman] such police officer's
63 or firefighter's professional capacity in any court in a civil action and
64 the [policeman or fireman] police officer or firefighter receives no
65 compensation from the municipality by which [he] the police officer or
66 firefighter is employed for the time [he is] spent in attendance at court,
67 there shall be allowed and paid by the summoning party to the
68 [policeman or fireman] police officer or firefighter a witness fee of forty
69 dollars, together with [the mileage allowed by law to witnesses in
70 criminal cases, for each day he] mileage in the same amount per mile
71 as provided for state employees pursuant to section 5-141c, for each
72 day that the police officer or firefighter is required to attend court. If
73 the [policeman or fireman] police officer or firefighter testifies in any
74 such proceeding or civil action on a vacation day or compensatory day
75 off, [he] the police officer or firefighter shall be paid by the summoning
76 party the sum of forty dollars, together with [the mileage allowed by
77 law] mileage in the same amount per mile as provided for state
78 employees pursuant to section 5-141c, notwithstanding the fact that
79 [he] the police officer or firefighter is receiving compensation for such
80 day from the town, city or borough by which [he] the police officer or
81 firefighter is employed.

82 (d) The amounts paid under subsections (b) and (c) of this section
83 shall be taxed as a part of the costs, and shall be in lieu of all other
84 witness fees payable to such [policeman or fireman] police officer or
85 firefighter.

86 (e) When any person is confined in a community correctional center
87 upon the allegation of the state's attorney that [he] such person will be
88 a material witness in a pending criminal proceeding, [he shall receive,
89 in addition to his legal fees as a witness] such person shall be paid by
90 the clerk of the Superior Court, in addition to any other witness fees,
91 two dollars for each day that [he] such person is so confined.

92 (f) When any practitioner of the healing arts, as defined in section
93 20-1, dentist, registered nurse, advanced practice registered nurse or
94 licensed practical nurse, as defined in section 20-87a, or real estate
95 appraiser gives expert testimony in any action or proceeding,
96 including by means of a deposition, the court shall determine a
97 reasonable fee to be paid to such practitioner of the healing arts,
98 dentist, registered nurse, advanced practice registered nurse, licensed
99 practical nurse or real estate appraiser and taxed as part of the costs in
100 lieu of all other witness fees payable to such practitioner of the healing
101 arts, dentist, registered nurse, advanced practice registered nurse,
102 licensed practical nurse or real estate appraiser.

103 (g) When any public accountant licensed under chapter 389 is
104 subpoenaed by any party, other than the state, to testify in [his
105 capacity as a public accountant] such public accountant's professional
106 capacity in any action or proceeding, the court shall determine a
107 reasonable fee to be paid to the public accountant and such fee shall be
108 paid by the party issuing such subpoena.

109 Sec. 3. Subsection (c) of section 54-82i of the general statutes, as
110 amended by section 11 of public act 01-186, is repealed and the
111 following is substituted in lieu thereof (*Effective October 1, 2002*):

112 (c) If a person in any state, which by its laws has made provision for
113 commanding persons within its borders to attend and testify in

114 criminal prosecutions or in grand jury investigations commenced or
 115 about to commence in this state, is a material witness in a prosecution
 116 pending in a court of record in this state, or in a grand jury
 117 investigation which has commenced or is about to commence, a judge
 118 of such court may issue a certificate under the seal of the court, stating
 119 such facts and specifying the number of days the witness will be
 120 required. Such certificate may include a recommendation that the
 121 witness be taken into immediate custody and delivered to an officer of
 122 this state to assure the attendance of the witness in this state. Such
 123 certificate shall be presented to a judge of a court of record in the
 124 judicial district in which the witness is found. If the witness is
 125 summoned to attend and testify in this state, the witness shall be
 126 tendered by the summoning party the same amount per mile as
 127 provided for state employees pursuant to section 5-141c for each mile
 128 by the ordinary traveled route to and from the court where the
 129 prosecution is pending, [and] five dollars for each day that such
 130 witness is required to travel and attend as a witness and, when
 131 summoned by the Chief State's Attorney, expenses in accordance with
 132 section 54-152. A witness who has appeared in accordance with the
 133 provisions of the summons shall not be required to remain within this
 134 state a longer period of time than the period mentioned in the
 135 certificate, unless otherwise ordered by the court. If such witness, after
 136 coming into this state, fails, without good cause, to attend and testify
 137 as directed in the summons, the witness shall be punished in the
 138 manner provided for the punishment of any witness who disobeys a
 139 summons issued from a court of record in this state.

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|--|------------------------|
| This act shall take effect as follows: | |
| Section 1 | <i>October 1, 2002</i> |
| Sec. 2 | <i>October 1, 2002</i> |
| Sec. 3 | <i>October 1, 2002</i> |

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

| Fund-Type | Agency Affected | Current FY \$ | FY 03 \$ | FY 04 \$ |
|-----------|-----------------|------------------|----------|----------|
| GF - Cost | Judicial Dept. | - | 45,000 | 60,000 |

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill increases fees and the mileage reimbursement rate for witnesses in civil and criminal cases. This would result in a minimal cost to the Judicial Department, which pays witnesses when the state summons them. The agency spent approximately \$10,000 in FY 01 under current law. The bill would increase the cost of witness fees and mileage reimbursement by about \$50,000 annually. The bill also requires the Judicial Department to pay material witnesses \$2 for every day they are held in a correctional center pending their testimony on a criminal case. This provision is expected to result in a minimal annual cost (less than \$10,000) to the Judicial Department. The FY 03 cost would be one quarter less because the effective date of the bill is October 1, 2002.

OLR Bill Analysis

HB 5518

AN ACT CONCERNING WITNESS FEES**SUMMARY:**

This bill increases (1) the fees paid to witnesses in civil and criminal cases from 50¢ per day to \$5 per day and (2) the mileage reimbursement the party issuing the summons must pay to police officers and fire fighters who testify in any criminal or civil case from 10¢ a mile to the amount state employees are allowed, which is currently 36.5¢ per mile. The bill requires the party who summons a witness to pay the witness fee when the witness receives the summons. But if the state summons the witness, the clerk pays the witness when he appears.

The bill specifies that these fees are to be paid only if they have not otherwise been paid under the law (1) authorizing the chief state's attorney to provide a reasonable sum for out-of-state witnesses or (2) authorizing the state to pay out-of-state witnesses in a criminal prosecution or grand jury investigation.

The bill specifies that:

1. fees paid to witnesses in civil and criminal cases are the same;
2. the party that summoned police officers and fire fighters must pay their witness fees;
3. the court clerk pays the \$2 per day fee for material witnesses held in a correctional center pending their testimony on a criminal case and also pays their witness fees;
4. the authority to issue subpoenas for the state extends to any attorneys employed by the attorney general's office, Division of Criminal Justice, Division of Defender Services, and any special attorney in the state's attorney's, public defender's, or attorney general's office;
5. the summoning party pays mileage fee when a witness is summoned from another state to testify in a criminal proceeding or grand jury investigation; and
6. the mileage fees and \$5 per day witness fee payable to out-of-state

witnesses are in addition to any reasonable sum the chief state's attorney provides for their time and expenses in going to, attending, and returning from court.

EFFECTIVE DATE: October 1, 2002

MATERIAL WITNESSES

Under current law, a material witness confined to a community correctional center pending his testimony in a criminal proceeding receives \$2 per day in addition to witness fees. The bill specifies that the court clerk must pay these fees.

SUBPOENAS BY THE STATE

Current law allows subpoenas issued by the state to contain a notice indicating that the witness's statutory fees will be paid by the court clerk if he gives the clerk the subpoena on the day he appears to testify. It specifies that the authority to issue subpoenas include the state attorney general, assistant attorney general, or any public defender or assistant public defender. The bill expands the list of those who may issue subpoenas for the state with this notice to include any attorney employed by the attorney general's office, Division of Criminal Justice, Division of Defender Services, and any special attorney in the state's attorney, public defenders or attorney general's office.

It also specifies that when these people issue the subpoena, the clerk must pay the fees on the day the witness appears to testify upon request.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 40 Nay 0